

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOUGLAS R. ROSE, SR. and AUGUSTA M. ROSE

Plaintiff(s)

-against-

CAREY LIMOUSINE WESTCHESTER, INC., CAREY
INTERNATIONAL, INC. and ISMAIL ARSLANBAS

Defendant(s)

07 CIV. 3882 (SCR)

Hon. Stephen C. Robinson

VERIFIED ANSWER

Defendants, CAREY LIMOUSINE WESTCHESTER, INC., CAREY INTERNATIONAL, INC. and ISMAIL ARSLANBAS, by their attorneys, THE LAW OFFICE OF DAVID S. KLAUSNER, PLLC, as and for their Answer to the Complaint of plaintiff, states as follows:

1. Defendants admit to the allegations contained in paragraphs numbered "5", "7", "8" and "10" of plaintiff's Complaint.
2. Defendants deny each and every allegation contained in paragraphs numbered "3", "4", "9", and "12" of plaintiff's Complaint.
3. Defendants deny in the form alleged, the allegations contained in paragraphs numbered "6" and "11" of plaintiff's Complaint, and refer all questions of law to this Court.
4. Defendants deny knowledge or information sufficient to form an opinion as to the truth of the matter asserted in paragraph numbered "2" of plaintiff's Complaint.
5. Defendants deny knowledge or information sufficient to form an opinion as to the truth of the matter asserted to the allegations contained in paragraph numbered "1" of plaintiff's Complaint, and refer all questions of law to this Court.

ANSWERING THE FIRST COUNT

6. Defendants deny each and every allegation contained in paragraphs numbered "18", "19", "20", "22", and "23" of plaintiff's Complaint.

7. Defendants deny in the form alleged, the allegations contained in paragraph numbered "21" of plaintiff's Complaint.

8. Defendants deny in the form alleged, the allegations contained in paragraphs numbered "13" and "14" of plaintiff's Complaint, except admit that defendants Carey Limousine Westchester Inc. and Carey International Inc. are in the business of providing chauffeured transportation services.

9. Defendants deny in the form alleged, the allegations contained in paragraph numbered "15" of plaintiff's Complaint, except admit that defendant Carey Limousine Westchester Inc. was the registrant of multiple vehicles on June 6, 2004.

10. Defendants deny in the form alleged, the allegations contained in paragraph numbered "16" of plaintiff's Complaint, except admit that Ismail Arslanbas was an employee of Carey Limousine Westchester, Inc. on June 6, 2004.

11. Defendants deny any knowledge sufficient to form an opinion as to the truth of the matter asserted to the allegations contained in paragraph numbered "17" of plaintiff's complaint, and refer all questions of law to this Court.

ANSWERING THE SECOND COUNT

12. Defendants repeat and reallege their responses to paragraphs numbered "1" through "23" of plaintiff's Complaint as if set forth herein.

13. Defendants deny each and every allegation contained in paragraphs numbered "27", and "28" of plaintiff's Complaint.

14. Defendants deny any knowledge sufficient to form an opinion as to the truth of the matter asserted to the allegations contained in paragraphs numbered "25" and "26" of plaintiff's Complaint, and refer all questions of law to this Court.

AS AND FOR A FIRST AND COMPLETE AFFIRMATIVE DEFENSE

15. The injuries claimed by plaintiffs in the Complaint were caused in whole or in part by the culpable conduct of the plaintiffs which either bars the claims completely or else diminishes the damages by proportion that such culpable conduct that the plaintiff bears to the total culpable conduct causing the injuries.

AS AND FOR A SECOND AND COMPLETE AFFIRMATIVE DEFENSE

16. The injuries sustained by plaintiffs do not constitute serious injuries as defined in Insurance Law §5102.

AS AND FOR A THIRD AND COMPLETE AFFIRMATIVE DEFENSE

17. Upon information and belief, any amount that may be awarded to the plaintiffs must be reduced by the amount received from or indemnified by the ending collateral source pursuant to CPLR §4545.

AS AND FOR A FOURTH AND COMPLETE AFFIRMATIVE DEFENSE

18. Upon information and belief, in the even that a judgment is rendered against the answering defendant, it shall not be responsible for more than its proportionate share of liability pursuant to §.1601, et. seq. of the CPLR.

AS AND FOR A FIFTH AND COMPLETE AFFIRMATIVE DEFENSE

19. Pursuant to CPLR Article 16, the liability of defendants answering herein, if any, is less than fifty percent (50%) of plaintiff's non-economic loss.

AS AND FOR A SIXTH AND COMPLETE AFFIRMATIVE DEFENSE

20. Plaintiff DOUGLAS R. ROSE, SR. failed to utilize an available seatbelt.

WHEREFORE, the answering defendants CAREY LIMOUSINE WESTCHESTER, INC., CAREY INTERNATIONAL INC., and ISMAIL ARSLANBAS, demand judgment dismissing the Complaint herein, together with such other and further relief as is proper.

Dated: White Plains, New York
July 27, 2007

THE LAW OFFICE OF DAVID S.
KLAUSNER, PLLC

By: 

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ATTORNEY VERIFICATION

I, the undersigned, am an attorney admitted to practice in the courts of New York State, and say that: I am the attorney of record, or of counsel with the attorneys of record for the DEFENDANTS. I have read the annexed VERIFIED ANSWER, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon the following: information and investigation maintained in a file in my office:

The reason I make this Affirmation instead of the Defendant is because the Defendant resides in a County other than where I maintain my office.

I affirm that the foregoing statements are true under penalties of perjury.

Dated: White Plains, New York
July 27, 2007

Yours, etc.,



David S. Klausner (DK7249)